SUPREME COURT, U. S.

FILED

DEC 6 1973

MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-372

HERBERT HARVEY,

Petitioner,

—v.—

EMILE W. SAULNIER, *et al.*,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR REHEARING, AND MOTION.

HERBERT HARVEY, *pro se,*
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PETITION FOR REHEARING

Consideration by a Justice Warranted

Because of the summary way in which the petition for certiorari in this matter, addressed to the Supreme Court of the United States was denied, one has the impression that it was disposed of in a preliminary filtering process according to its category alone - it was a case involving an estate in real property held by an individual - and did not reach a stage of consideration by the justices of the court, on the merits or otherwise.

Further because of the extreme nature of the violation of due process in the proceedings below it is urged here that the petition to your court be examined by one or more justices to measure the degree.

Everybody and his brother are heard screaming about due process in the courts. But here we are dealing with a most fundamental question. Has the whole substance of due process been abandoned in certain sectors of judicial practice in the United States? This question is presented in my petition. It is not a question to be thrown out by a preliminary screening process - a matter of classification only. It may fall into a particular category, but should receive consideration based on the extraordinary deprivation of due process of law which it presents.

A Motion is annexed to this petition for re-

hearing, requesting that the Chief Justice examine the petition and determine the degree to which review is warranted, being the degree to which due process has been extirpated from this (not untypical) proceeding below your court in a matter affecting, to be sure, only an individual's interest in real property, but dealing with that interest in a way peculiarly repugnant to legal, equitable, just and decent practices.*

The Role of the Courts

One recognizes that the denial of a petition for certiorari to this court does not imply that the court embraces the principles which it thereby declines to review. The court in this way is, in a sense, forced into an unwilling alliance with much that it does not approve. However, in this matter, the alliance is with a grave evil. The principle implicit (and, indeed, rather explicit - see Petition, page

*To cite one specific - this matter was determined below on the proposition that I am a scoundrel. This was largely if not wholly the basis. It may, for all your court knows, be true. But no item of evidence was introduced into the court below, nor into any other court where I was present, to support the proposition. My contention in the Petition is that, scoundrel or no, I am entitled to be heard, somewhere, on this proposition. I never have been.

The point emerged with particular clarity from the recent violent disturbances in the District of Columbia prison, where one issue was the systematic corruption of teen-age prisoners by prison life. It was the inmates of the prison, and not its administrators, who could not stomach the abuse. To observe that most of those arguing against the abuse were criminals does not detract from the cogency of the argument. It merely accents it.

So here. Were I the world's greatest scoundrel, the circumstance would be irrelevant to the argument presented in my petition. It would, however, shed some light on the character of certain exemplars of law.

14) in the determination below is that both state and federal judges may dispose of people's real property as they choose, and in response to any impulse of their own unrelated to legal or equitable considerations, without let or hindrance, and more especially with complete immunity to review by the highest court in the land. This prerogative is being exercised. It has been exercised in the present instance. Your court will not wish, even involuntarily, thus to be embraced by the chicane of lower courts.

A large segment of disrespect for law in our country, which is to say within the jurisdiction of the present court, is rooted in a conviction, based on impartial observation, that the courts cannot be depended upon to render judgment in accordance with the principles of law and equity but that rather, in cases where an interest of the judge, or of those to whom he is beholden, are in question, the interests and not the law or the equities will prove determinative. In simple words, if the court cannot be trusted, the law cannot be respected. People of enterprise will often, and not unnaturally, greet this situation with the response of taking the law in their own hands.

In short, if courts will not respect the law who will? And equity lies in the same bed.

Your court is building construction designed to uphold law. It is useless to do this with one hand while encouraging the breakdown of law by refusing with the other to deal with lawlessness in the courts.

These observations are designed to meet my obligation to demonstrate to the court that my petition should be heard.

Honor

There is one other aspect to the same question. Attorneys admitted to practice before your court are not merely anybody, but an elite. They are selected by the court. How does counsel for my adversaries shine?

A reading of my Reply Brief in this matter will suggest to an impartial observer that the Brief in Opposition to the petition, submitted by counsel, is mendacious - that it is, in the vernacular, a pack of lies. What does this tell us of the elite which comprise the officers of your court? Are they selected for their adroitness in falsification? Caesar's wife should be above suspicion. In the instant matter, counsel wandered far from the truth, and he prevailed. Is it to be said that the party which tells the biggest lies will be the prevailing party in the Supreme Court? A question, perhaps, of appearance, but a significant one.

Certification; Summary of Grounds.*

This request for rehearing on my Petition is made in good faith and not for purposes of delay.

*Within the permitted time of 25 days under the Rule - considering delays in the mail, by which the court's prior determination was transmitted to me, the current state of the printing industry, not to mention the existence of rackets thriving on the processes of justice which operate up to the very doors of the Supreme Court, the etiology of which is suggested in my text - it is physically impossible to do more than dash off the basics of the present argument. Defects in presentation may be attributed to time compression.

Its grounds are that, notwithstanding the category - one for exclusion - into which the case falls, the court's attention is warranted by the extraordinary loss of validity in the judicial process which it manifests both in a disregard below of the most primitive and fundamental of the elements of due process, and in a demeaning of the dignity of the court at the hands of its officers.

MOTION

On the ground that the matter here before the court involves a grave issue of the application of due process in the courts, apposite to the concerns of the Chief Justice in his function of administration of justice through the Supreme Court of the United States, this Motion prays the Chief Justice to examine the petition submitted by me in the matter, denied, to determine whether the question there submitted for review warrants consideration by the court. Petition for rehearing, annexed, argues the need.

Herbert Harvey
appearing pro se